

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Present:

Mr. Justice Md. Bashir Ullah

Civil Revision No. 1537 of 2024

IN THE MATTER OF:

An application under Section 115(1) of the
Code of Civil Procedure

And

IN THE MATTER OF:

Md. Islam Ali and others

...Plaintiffs-Appellants -Petitioners.

-Versus-

The Government of Bangladesh,
represented by the Deputy Commissioner,
Satkhira and others.

... Defendants-Respondents-Opposite parties.

Mr. Shamsur Rahman, Advocate with

Mr. Sudipta Arjun, Advocate

Ms. Salma Kulsum, Advocate

... For the Petitioners.

Mr. Monzurul Alam Sujan, DAG

... For the Opposite party Nos. 1-4

Mr. Md. Shahidul Islam, Advocate

... For the Opposite party No. 5

Heard on 06.11.2025 and 16.11.2025

Judgment on 17.11.2025

At the instance of plaintiffs in Title Suit No. 72 of
2021, this Rule was issued calling upon the opposite parties

to show cause as to why the judgment and decree dated 10.03.2024 (decree signed on 14.03.2024) passed by the learned Additional District Judge, 5th Court, Satkhira in Title Appeal No. 106 of 2023 dismissing the appeal and affirming the judgment and decree dated 22.08.2023 (decree signed on 28.08.2023) passed by the learned Assistant Judge, Kolaroa, Satkhira in Title Suit No. 72 of 2021 dismissing the suit should not be set aside and/or such other or further order or orders be passed as to this Court may seem fit and proper.

At the time of issuance of the Rule, the parties were directed to maintain *status quo* in respect of possession and position of the suit land for a period of 06 (six) months and the order of *status quo* was subsequently extended till disposal of the Rule on 13.11.2024.

Facts, relevant for disposal of the Rule, in brief, are that the present petitioners as plaintiffs instituted Title Suit No.72 of 2021 in the Court of the learned Assistant Judge, Kolaroa, Satkhira seeking declaration of title and perpetual injunction in respect of the property described in the schedule of the plaint.

The case of the plaintiffs in brief are that the suit land measuring 1 decimal originally belonged to Soleman Sarder and Rahela Khatun and was recorded in their names under S.A *Khatian* No.20, Plot No.32. Rahela Khatun and Soleman Sardar constructed a shop on the suit land about 70 years ago and had been paying land development tax and other government dues regularly. During the last settlement survey, the officers concerned recorded B.R.S. *Kathian* No. 2673 in the name of the predecessors of the present petitioners in respect of 0.0093 acres out of one decimal. Subsequently, Rahela Khatun died leaving behind petitioner Nos.1-6 as her heirs and Soleman Sardar died leaving behind petitioner Nos. 7-14 as his heirs. Recently, the defendants in collusion with some vested quarters attempted to incorporate the suit property in to in *Khatian* No.1 and as such they served a notice upon the plaintiffs to appear before the land office on 25.01.2021 and 15.04.2021. After hearing on 03.02.2021 and 08.02.2021, the ownership of the said property in question was found established in favour of the plaintiffs. On 03.05.2021 the defendants served a notice for

demolition of the shop, compelling the plaintiff to institute the suit.

On the other hand, defendant Nos. 1-4 contested the suit by filing written statement denying the material allegations of the plaint contending, *inter alia*, that the property in question is Government *khas* land and same was recorded in the name of the predecessors of the plaintiffs wrongly in the B.R.S. *Khatian* No.2673 which is erroneous and fraudulent. Actually, they own the property under B.R.S. *Khatian* No. 893. The plaintiff attempted to grab Government property causing double recording the same land in two separate BRS *Khatians*, specifically numbers 893 and 2673. Therefore, the suit is liable to be dismissed.

The learned trial Court framed 03 (three) issues to dispose of the suit and during trial the plaintiffs examined as many as 02 (two) witnesses and the defendants examined 1(one) witness. Documentary evidence of the plaintiffs were marked as Exhibit Nos. 1-4 series and documentary evidence of the defendant was marked as Exhibit No. Ka-Cha series.

Upon hearing the parties, perusing the records and considering the materials of both oral and documentary evidence, the trial Court dismissed the suit on contest by rendering judgment and decree dated 22.08.2023.

Challenging the judgment and decree dated 22.08.2023 passed by the Court of the Assistant Judge, Kolaroa, Satkhira the petitioner as appellant filed Title Appeal No.106 of 2023 before the learned District Judge, Satkhira. The learned District Judge transferred the appeal to the learned Additional District Judge, 5th Court, Satkhira who upon hearing the parties dismissed the same on contest by its judgment and decree dated 10.03.2024.

Being aggrieved by and dissatisfied with the judgment and decree dated 10.03.2024 passed by the learned Additional District Judge, 5th Court, Satkhira, the petitioners preferred the instant revisional application under Section 115(1) of the Code of Civil Procedure.

Mr. Sudipta Arjun, learned Advocate appearing on behalf of the petitioners contends that the learned appellate Court below was totally failed to consider the evidence on

record as well the provision of law and as such the lower appellate Court dismissed the appeal by the judgment and decree dated 10.03.2024 affirming the judgment passed by the trial Court. Thus both the Courts have committed an error of law resulting an error in decision of the judgment and decree which has occasioned the failure of justice and thus the same is liable to be set aside.

He further contends that the defendants failed to produce any document as to possession of the petitioners in B.R.S. *Khatian* No. 893. He submits that the added opposite party No. 5 has no *locus standi* to show any further evidence in the civil revision. He submits that no issue was framed to identify the land owned by the government in S.A. plot No. 32.

Learned counsel next submits that the petitioners acquired right, title and interest in the suit land and S.A. and B.R.S. *Khatian* were properly prepared in the name of the predecessors of the petitioners and by paying land development tax they have been possessing the suit land since long. But, without considering the aforesaid factual

aspect the learned appellate Court below most illegally dismissed the appeal and thus the same is liable to be set aside.

He submits that it has not been mentioned that plot No. 9152 has not been recorded in B.R.S. map and B.R.S. *Khatian* as road or path way which is evident from the evidence of DW1 and exhibited documents.

He further contends that the defendant Nos. 1 to 4 failed to show that the governments land which was recorded in the Khas *Khatian* No. 1 measuring 10 decimals was acquired by the plaintiff even there is no specific statement in the written statement. The defendants also did not produce any B.R.S. *Khatian* to show in which *Khatians* the government land was recorded and finally the learned Advocate prays for making the Rule absolute by setting aside the impugned judgments and decrees.

In support of his contention the learned Advocate refers to the decision passed in the case of *Md. Abdul Hamid being dead his heirs: Md. Arju Hossain and others Vs. Mst. Sara Khatun and others*, reported in 15 LM (AD)

(2023) 456 and *Divisional Estate Officer, Bangladesh Railway and others vs. Jashim Uddin and others* reported in 24 BLC (AD) (2019) 36.

Per contra, Mr. Monzurul Alam Sujan, learned Deputy Attorney General appearing on behalf of the opposite party Nos. 1-4 contends that the land in question belongs to the Government. DW1 proved that the plaintiff-petitioners have no right, title in the suit land. The suit land was recorded in the name of the Government under *Khatian* No. 1 and finally he prays for discharging the Rule.

Mr. Shahidul Islam, learned Advocate appearing on behalf of the opposite party No. 5 by filing counter affidavit contends that the Deputy Commissioner, Satkhira directed the Assistant Commissioner (Land), Kalaroa, Satkhira to make a physical inspection into the suit land under Memo No. 31.44.8700.006.07.035.15-494 dated 31.03.2019. Thereafter, the Assistant Commissioner (Land) Kalaroa vide its memo No.31.44.89113.002.10.000.18-602 dated 19.09.2019 sent the inspection report to the Additional Deputy Commissioner, Satkhira stating that there was no

shop earlier, the existing shop erected by the plaintiffs causing serious difficulties to the people in use of the road and there is no any other path for entrance and way out of the residents of 15-16 houses.

Learned Advocate further submits that the Assistant Officer of Kolaroa Municipal Land Office requested the Assistant Commissioner (Land) Kalaroa to correct the record as per Rule 23(4) of the State Acquisition & Tenancy Act, 1950 under Memo No. 226, dated 27.03.2021 as Md. Islam Ali and others fraudulently and illegally obtained 1 decimal of Government *khas* land in the name of their predecessors.

Learned counsel further contends that on 22.08.2023, the trial Court by its judgment and decree dismissed the suit and thereafter on 12.09.2023 as per the order passed in Upazilla Land Office, Kolaroa under Miscellaneous Case No. 07/23-24 amended the *Khatian* of the suit land and brought the same in the name of Government.

He next submits that the trial Court considering the facts and circumstances of the case, evidence on record and law rightly dismissed the suit and also the Court of appeal

below rightly dismissed the appeal by concurrent finding as such the Rule is liable to be discharged with cost.

In support of his contention the learned Advocate refers to the decision passed in the case of *Government of Bangladesh and another Vs. Mashiur Rahman and others*, reported in 2 MLR (AD) (1997) 316, *KM Sarwar Hossain Vs. Mosharraf Hossain and others* reported in 45 DLR (1993) 562, *Chief Joseph Wobo and others Vs. The Attorney-General for the Federation of Nigeria and another* reported in 9 DLR (1957) 616, *The Stool of Abinabina Vs. Chief Kojo Enyimadu* reported in 5 DLR 247 and *Madan Gopal and others Vs. Maran Bepari and others* reported in 21 DLR (SC) (1969) 448.

I have heard the learned Advocates for both sides, perused the revisional application, counter affidavit, impugned judgments and decrees and the materials on record.

In the plaint, the plaintiffs claimed possession over the suit land for more than 70 years. However, PW1, Md. Yunus Ali and PW2, Abdur Rahman, the tenant of the shop which

was erected on the suit land failed to substantiate such long possession. Rather, Advocate Commissioner, Md. Nashir Uddin submitted a report and proved it as Exhibit I wherein he stated that, “নালিশী ভূমিতে অবস্থিত উক্ত দোকান ঘরের আনুমানিক বয়স ০৭ (সাত) বছর।” It appears from the B.R.S. map that the B.R.S. plot No. 9152 was vacant and not previously occupied by any structure. Thus, the plaintiff failed to prove their assertion that they have been enjoying the possession over the suit land for more than 70 years.

It appears from exhibit 'ka' that the Union Land Assistant Officer sent a letter dated 27.03.2021 to the Assistant Commissioner (Land), Kolaroa, Satkhira under memo No. 226 informing that Md. Islam Ali and others fraudulently and illegally obtained 1 decimal of Government *khas* land in the name of their predecessors and requested to correct the record as per Rule 23(4) of the State Acquisition & Tenancy Act, 1950. The content of the said memo runs as under:

“বর্ণিত বিষয়ের আলোকে অত্র অফিসে রক্ষিত সংশ্লিষ্ট রেজিস্ট্রারাদি পর্যালোচনান্তে মহোদয়কে জানানো যাচ্ছে যে, ৬০ নং বিকরা মৌজার এস.এ. ১নং

খতিয়ানে ৩২ নং দাগে ০.১০ একর জমি খাস জমি হিসেবে রেকর্ড লিপিবদ্ধ থাকে, যাহা পূর্বপর জনসাধারণের চলাচলের পথ হিসেবে সরকারি দখলে নিয়ন্ত্রিত আছে।

.. অতএব উপরিউক্ত বর্ণনা মোতাবেক বর্ণিত নিয়ন্ত্রণে আছে কিন্তু জালিয়াতি এবং তঞ্চকতার মাধ্যমে হেলাতলা সাকিনে মোঃ ইসলাম আলী, দিং পিতা- মৃত সুকচাঁদ সরদার তাদের মায়ের নামে এবং মোঃ হাসানুজ্জামান, দিং পিতা-মৃত মোঃ সোলেমান সরদার তাদের পিতার নামে সরকারি ০.০০৯৩ একর জমি বর্তমান জরিপে আর.এস. ২৬৭৩ নং খতিয়ানে ৯১৫২ নং দাগে রেকর্ড করে নিয়াছেন। যাহাতে সরকারি সত্ত্ব স্বার্থ ক্ষুন্ন হয়েছে। বর্ণিত ০.০০৯৩ একর সরকারি খাস জমি বর্তমানেও সরকারি দখল নিয়ন্ত্রনে আছে। যেহেতু জালিয়াতি ও তঞ্চকতার মাধ্যমে হেলাতলা সাকিনের মোঃ ইসলাম আলী, পিতা- মৃত সুকচাঁদ সরদার তাদের মায়ের নামে এবং হাসানুজ্জামান, পিতা- মৃত সোলেমান সরদার তাদের পিতার নামে ২৬৭৩ নং খতিয়ানে ৯১৫২ নং দাগে সরকারি .০০৯৩ একর জমি ব্যক্তি মালিকানা রেকর্ড করাইয়াছেন সেহেতু উক্ত সরকারি খাস জমি পুনরায় সরকারের নামে রেকর্ড হওয়া আবশ্যিক। বর্ণিত ০.০০৯৩ এর জমি সরকারি খাস জমি হওয়ায় ভূমি মন্ত্রণালয়ের আইন শাখা-১ এর ০২.০৯.২০১৪ খ্রি.তারিখ (...) পরিপত্রের নির্দেশনা মোতাবেক রাষ্ট্রীয় অধিগ্রহণ ও প্রজাসত্ত্ব বিধিমালা ১৯৫৫ এর বিধি ২৩(৪) অনুযায়ী রেকর্ড সংশোধনযোগ্য। অতএব উপরিউক্ত বর্ণনা মোতাবেক ভূমি মন্ত্রণালয়ের আইন শাখা ০১ এর ০২.০৯.২০১৪ এর () নং স্মারকের পরিপত্রের নির্দেশনা মোতাবেক সরকারি সম্পত্তি রাষ্ট্রীয় অধিগ্রহণ ও প্রজাসত্ত্ব বিধিমালা ১৯৫৫ এর বিধি ২৩(৪) অনুযায়ী ঝিকর মৌজার আর.এস. ২৬৭৩ নং খতিয়ান থেকে ৯১৫২ নং দাগে

০.০০৯৩ একর জমি কর্তন পূর্বক ১নং খতিয়ানভুক্ত রেকর্ড করতঃ সংশোধন করার সুপারিশসহ অত্র প্রতিবেদন মহোদয় সমীপে প্রেরণ করা হলো।”

Exhibit-‘Umma’ reveals that 10 decimals of land under S.A. Plot No. 32 was recorded in the name of the Collector, Khulna under *Khatian* No. 1. Defendant Nos. 1 to 4 stated in paragraph No. 12 of written statement that “একই ভূমি বাদীপক্ষ ৮৯৩ এবং ২৬৭৩ নং খতিয়ানে দুইবার রেকর্ড করাইয়া অবৈধভাবে আত্মসাতের প্রচেষ্টা চালাইতেছেন।” Defendant Nos. 1 to 4 further stated that “বাদীপক্ষ তাহাদের নামীয় ভূমি যাহা ওয়ারিশ হিসাবে প্রাপ্ত হইয়াছে তাহা বি.আর.এস. ৮৯৩ নং খতিয়ানে ৯১৭৩ দাগ হিসাবে রেকর্ড করা হইয়াছে।” DW1, Md. Basharat Hossain, Union Land Assistant Officer proved the assertions made in the written statement.

Exhibit-‘Cha’ demonstrates that plot No. 9173 belonging to *Khatian* No. 893 for 01 decimal of land was recorded in the name of the predecessors of the plaintiffs and thus they are the owner of 1 decimal of land in plot No. 9173. But they are claiming 0.0093 acres of land in plot No. 9152 of BRS *Khatian* No. 2673. In fact they are trying to misappropriate Government land by double recording it under two separate BRS *Khatian* numbers 893 and 2673.

The learned Assistant Judge, Kolaroa, Satkhira rightly observed that 0.0093 acres of land under Plot No. 9152 and BRS *Khatian* No. 2673 was wrongly recorded in the name of the predecessor of the plaintiffs. The learned Additional District Judge, 5th Court, Satkhira also rightly observed while dismissing the appeal that the plaintiffs-appellants have no title in the suit land and as such they are not entitled to have any relief from the Court.

Thus the Courts below, upon proper appreciation of evidence concurrently found that the plaintiffs failed to establish their title over the suit land as such this Court has nothing to interfere over the concurrent findings of the facts in the absence of misreading or non-consideration of the evidence on record. This view gets support from the case of *Abdul Gafur and others vs. Md. Abdur Razzak and others*, reported in 62 DLR (AD) (2010) 242.

It transpires from the inspection report dated 29.08.2019 (Vide Annexure 3 of the counter affidavit) made by the Kanungo, Upazilla Land Office, Kolaroa, Satkhira that the suit land is a path way and the people are facing

tremendous problem due to construction of a shop on the suit land. There is no alternative way to departure from the nearby houses. Earlier there was no shop in the path way existing in the suit land. It also transpires from Memo No. 226 dated 27.03.2021 (Annexure 4 of the counter affidavit) issued by Kolaroa Municipal Land Office, Kolaroa, Sathkhira that the public are using the suit land as path way.

It appears from Annexure 5 of the counter affidavit that the B.R.S record was already corrected and amended on 12.09.2023 in favour of the Government but the amended B.R.S record was not challenged by the plaintiffs-petitioners.

Given the above facts and circumstances, I find no illegality, impropriety or material irregularity in the impugned judgments and decrees warranting interference in revisional jurisdiction. I do not find any merit in the Rule. As such the Rule is liable to be discharged.

As a result, the Rule is discharged, however without any order as to costs.

The order of *status quo* granted at the time of issuance of the Rule stands recalled and vacated.

Let a copy of this judgment be communicated to the concerned court forthwith.

(Md. Bashir Ullah, J.)

Md. Sabuj Akan
Assistant Bench Officer.